

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Western District of New York

United States of America

v.

AHMED OSMEN

Defendant(s)

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Case No. 22-MJ-684

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 28, 2022 in the county of Wayne in the
Western District of New York, the defendant(s) violated:

*Code Section**Offense Description*Title 21, United States Code,
Section 841(a)(1)

Possessed with Intent to Distribute a Controlled Substance

Title 18, United States Code,
Section 924(c)(1)(A)(i)

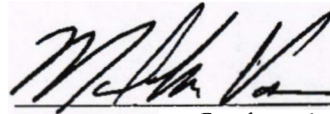
Possessed Firearms in Furtherance of a Drug Trafficking Offense

Title 18, United States Code,
Section 922(g)(1)

Felon in Possession of Ammunition

This criminal complaint is based on these facts:

See attached affidavit of ATF SA Malcolm Van Alstyne

☒ Continued on the attached sheet.*Complainant's signature*

Affidavit and Complaint submitted electronically by email
in .pdf format. Oath administered, and contents and signature,
attested to me as true and accurate telephonically pursuant to
Fed. R. Crim.P. 4.1 and 4 (d) on:

Malcolm Van Alstyne, SA, ATF

Printed name and title

Date: October 5, 2022

*Judge's signature*

City and state: Rochester, New York

Hon. Mark W. Pedersen, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

22-MJ-684

AHMED OSMEN,

Defendant.

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Malcolm D. Van Alstyne, Jr., being duly sworn, depose and say:

1. Your affiant is Special Agent (SA) with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), assigned to the New York Field Division, Rochester Field Office.

2. I have been employed as an ATF Special Agent since 2001. Prior to being employed as an ATF Special Agent, I was employed as a U.S. Probation Officer for the Northern District of New York in Syracuse, New York for over four years. My primary duties as an ATF Special Agent include investigating violations of federal firearms laws such as individuals engaged in illegal firearm trafficking, unlawful possession of firearms, as well as the possession of firearms during the commission of drug trafficking crimes, and other crimes of violence.

3. During my tenure with ATF, I have participated in numerous investigations relating to individuals that were involved in illegal firearm possession in violation of federal firearms laws, including Title 18, United States Code, Sections 922 and 924 and Title 26, United States Code, Section 5861. I have also participated in numerous investigations related to armed individuals that were involved in the distribution of controlled substances, including cocaine, cocaine base and other substances in violation of federal narcotics laws, including Title 21, United States Code, Section 846 and Title 18 United States Code, Sections 922 and 924. I am familiar with the habits, methods, routines, practices and procedures commonly employed by persons engaged in illegal firearms activities and the trafficking of illegal drugs. I have been the Affiant on five affidavits in support of Federal Title III intercepts and numerous Federal search warrants, arrest warrants and other applications. Through my training, education, experience and speaking with other law enforcement officers, I have become familiar with the manner in which illegal firearms and drugs are manufactured, transported, stored, and distributed, and with the methods of payment for such firearms and drugs.

PURPOSE OF AFFIDAVIT

4. This affidavit is submitted in support of a criminal complaint charging AHMED OSMEN (hereinafter OSMEN) with a violations of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C) (possession of a controlled substance with intent to distribute), Title 18, United States Code, Section 924(c)(1)(A)(i) (possession of firearms in furtherance of drug trafficking), and Title 18, United States Code, Section 922(g)(1) (possession of ammunition by a previously convicted felon).

5. As more fully described below, the facts in this affidavit are based on a combination of my personal participation in this investigation, review of police reports filed in connection with this investigation, and conversations with other law enforcement officers involved in this investigation. Further, I have had discussions with officers involved in this investigation who have confirmed the accuracy of the information contained within this affidavit. Since this affidavit is being submitted for a limited purpose, I have not included each and every fact that I know concerning this investigation. Rather, I have set forth only those facts that relate to the issue of whether probable cause exists to believe that OSMEN committed the above-mentioned offense.

PROBABLE CAUSE

6. On September 28, 2022, at approximately 6:00 a.m., New York State Police executed a state court authorized search warrant at 217 Fayette Street in Palmyra, Wayne County, New York. OSMEN was the sole occupant of the residence when the search warrant was executed. During the search of 217 Fayette Street officers found, among other things, the following items:

- a. Inside the front bedroom closet, one Polymer 80, 9mm pistol loaded with four (4) rounds of Remington 9 mm ammunition and five (5) rounds of PMC 9mm ammunition;
- b. In the living room under a couch, one Polymer 80, 9mm pistol loaded with six (6) rounds of Remington 9 mm ammunition and three (3) rounds of PMC 9mm ammunition;

- c. Inside the kitchen cabinet above the refrigerator, approximately 101.17 grams of cocaine;
- d. Inside of a kitchen drawer, one black digital scale;
- e. In living room and kitchen, a total of \$4,335.00 U.S. Currency;

7. Your affiant is aware that a member of the New York State Police performed a TRUNarc Scan on the suspected cocaine seized during the search. Your affiant is aware that this test determines whether there is a controlled substance present in the substance examined. Your affiant has learned the TRUNarc Scan indicated cocaine was present in the substance. Your affiant is also aware that a member of the New York State Police examined the two Polymer 80 firearms seized in this investigation to determine if they functioned and learned both Polymer 80's were found to be in working order.

8. OSMEN was arrested by law enforcement. After arrest, OSMEN received Miranda warnings and agreed to waive them. During a recorded interview, OSMEN admitted, in sum and substance, he buys and sells cocaine and that he utilizes the above listed firearms for protection while he is engaged in drug trafficking activity.

INTERSTATE NEXUS OF AMMUNITION

9. In connection with this investigation, ATF Special Agent Ryan Szwejbka, an expert who has testified in federal court regarding the origin of manufacture for firearms and ammunition, was provided a description of the ten (10) rounds of Remington 9mm ammunition and eight (8) rounds of PMC 9mm ammunition. Based on those descriptions, he determined that the ten (10) rounds of

Remington 9mm ammunition and eight (8) rounds of PMC 9mm ammunition were not manufactured in the State of New York. Therefore, they affected interstate commerce.

OSMEN'S PRIOR FELONY CONVICTIONS

10. In connection with this investigation, your affiant has reviewed a criminal history for OSMEN, which reflects that OSMEN has the following felony convictions:

- April 28, 2016, upon a plea of guilty to Aggravated Driving While Intoxicated, a Class E felony, in Wayne County Court and OSMEN was sentenced to a term of 5 years probation supervision, 6 months home detention, and \$100.00 fine;
- August 27, 2009, upon a plea of guilty to Criminal Possession of a Forged Instrument, a Class D felony, in Wayne County Court and OSMEN was sentenced to a term of 10 months imprisonment;
- July 15, 2009, upon a plea of guilty to Possession of a Forged Instrument in the Second Degree, a Class D felony, in Ontario County Court and OSMEN was sentenced to a term of 1 year imprisonment; and
- July 15, 2009, upon a plea of guilty to Grand Larceny in the Fourth Degree, a Class E felony, in Ontario County Court and OSMEN was sentenced to a term of 1 year imprisonment.

CONCLUSION

11. Based on the above information, your affiant submits that probable cause exists to believe that on or about September 28, 2022, OSMEN violated Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C) (possession of a controlled substance with intent to distribute), Title 18, United States Code, Section

924(c)(1)(A)(i) (possession of firearms in furtherance of drug trafficking), and Title 18, United States Code, Section 922(g)(1) (possession of ammunition by a previously convicted felon).



MALCOLM D. VAN ALSTYNE, JR.
Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim.P. 4.1 and 4(d) on this 5th day of October 2022.



HONORABLE MARK W. PEDERSEN
United States Magistrate Judge